IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16227 of 2004

Between:
Sk.Afsar, s/o Khadar Basha, r/o H.No.2-23/1, Takkemitta, China Padugupadu, Kovur, Nellore District.

..... PETITIONER

AND

1 The APGENCO, rep., by its Chairman and Managing Director, Vidyut Soudha, Hyderabad.
2 The Superintending Engineer, Nellore Thermal Station, APGENCO, Kovur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned action of the respondents in rejecting the case of the petitionerfor absorption vide Lr.No.SE/O/NLR/Adm.C2/D.No.245/99, dated 10-5-1999 while absorbing several others who worked along with the petitioner as highly illegal, arbitrary and violative of Art.14 of the Constitution of India

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondents: SMT.K.SESHARAJYAM

The Court at the stage of admission made the following :

WRIT PETITION NO : 16227 of 2004

ORDER:

The petitioner is contending that he is working as contract labour in the respondent-company. He contends that as per the notification of the A.P.S.E.B., vide B.P.Ms.No.36/37, dated 18.5.1997, there is a provision to absorb the contract labour as a regular workman. The petitioner contends that he made a representation to the respondents for regularization of his service in pursuance of B.P.Ms.No.36/37, dated 18.5.1997. But, the respondents rejected his representation on the ground that he did not fulfill the conditions prescribed in B.P.Ms.No.36/37, including the condition that he failed to produce proof that he was engaged by a licensed contractor and he does not possess the requisite qualification for appointment in the initial cadre as on the date of first engagement as contract labour. The petitioner, being aggrieved by the order of rejection, approached this Court through this writ petition seeking a direction to the respondents to absorb him as a regular workman by declaring the impugned rejection order dated 10.5.1999 as illegal, arbitrary and violative of Article 14 of the Constitution of India.

The learned Counsel for the petitioner represents that the petitioner need not necessarily work under the licensed contractor and it is sufficient, if he produces sufficient proof that he worked under a contractor to get himself eligible for absorption as a regular workman by virtue of B.P.Ms.No.36/37 dated 18.5.1997.

As seen from the record, it is clear that a workman, who is claiming that he worked under a contractor need not necessarily work under a licensed contractor. Therefore, the rejection of the request of the petitioner on the ground that he did not work under a licensed contractor is not sustainable. Regarding the possession of the qualification and

fulfillment of other requirements is concerned, it is for the concerned authorities to verify those aspects and on satisfying that the petitioner fulfilled the requisite qualifications, he shall be considered for regularization as per B.P.Ms.No.36/37, dated 18.5.1997.

In the light of the above circumstances, the order of rejection dated 10.5.1999 is set aside. The 1st respondent is directed to consider the case of the petitioner afresh by taking into consideration the material placed by him, without insisting that he shall produce any proof that he worked under a licensed contractor and pass appropriate orders, within eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No order as to costs.

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22nd September, 2004

Nn.

Copies to:

1 The Chairman and Managing Director, APGENCO,,
Vidyut Soudha, Hyderabad.

2 The Superintending Engineer, Nellore Thermal Station,
APGENCO, Kovur, Nellore District.

3. Two C.D. copies.